

REMARKS

The Examiner is requiring restriction to one of the following groups:

Group I: Claims 1-6, drawn to a modified sarcosine oxidase; and

Group II: Claims 7-10, drawn to DNA, host cell and recombinant production of the enzyme of group I.

Applicants provisionally election with traverse Group I, Claims 1-6, drawn to a modified sarcosine oxidase.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusion in regard to patentable distinctness. Restriction between a chemical product and a process for its production is proper when the product can be produced by another method. Applicants respectfully traverse the restriction requirement on the grounds that the Examiner has not carried the burden of providing sufficient reason and/or examples to support any conclusions that the claims of the restricted groups are patentably distinct.

The claims of Group I and II are integrally linked. Final product and method of making said product are interdependent and should be examined together on the merits. Different classification of subject matter to be divided is not conclusive proof of independent status and divisibility.

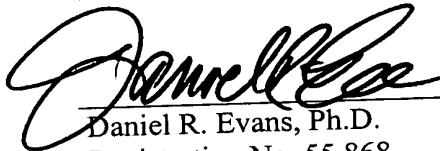
Claims 7-10, Group II, are directed to an invention for making the product, Claims 1-6, of Group I, accordingly the claims in each group are considered related inventions under 37 C.F.R. 1.475(b) and unity of invention between the groups exists.

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Applicants request that if the invention of Group I is found allowable, withdrawn  
Group II (which includes the limitations of the allowable claims), be rejoined.

Respectfully submitted,

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